

UPPER NECHES RIVER MUNICIPAL WATER AUTHORITY

CHAPTER 193

H. B. No. 405

An Act amending House Bill No. 579, Chapter 412, Acts of the Fifty-third Legislature, Regular Session, 1953, so as to provide additional directors for annexed areas; requiring a two-thirds ($\frac{2}{3}$) vote of the Board of Directors on locations for dams within two (2) years after this Act; so as to provide certain changes in the method of annexing territory containing exceptions with respect to petitions for annexation from the cities of Athens and Tyler; so as to provide certain changes in the method of tax and debt assumption by annexed areas; so as to remove certain restrictions and provide others on the location of the District's facilities; so as to provide the right to develop underground sources of water where feasible and necessary; so as to remove certain restrictions on the District's right of condemnation; so as to provide that the District may pledge the proceeds of water contracts, but that it shall not be obligated to construct facilities to any member city which fails to so contract; repealing conflicting laws to the extent of such conflicts; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That Section 3 of House Bill No. 579, Chapter 412, Acts of the Fifty-third Legislature, Regular Session, 1953, be and the same is hereby amended ⁷⁰ so as to hereafter read and provide as follows:

"Sec. 3. Governing Body of the District. The District's powers shall be exercised through a Board of Directors. The Governor, with the advice and consent of the Senate, shall appoint three (3) members to the Board of Directors from each of the cities herein provided to constitute the District. One (1) from each of said Cities shall be appointed to serve for a term expiring January 1, 1955; and one (1) to serve for a term expiring January 1, 1957; and the other to serve for a term expiring January 1, 1959. Each city or town which may hereafter become a part of the District, in the manner provided in Section 6 hereof, shall be entitled to three (3) members on the District's Board of Directors. Such additional directors also shall be appointed by the Governor, with the advice and consent of the Senate, and their respective initial terms shall be likewise staggered and of such duration as will permit the appointment of their respective successors at the same time as successors to the other Board members are appointed. Successors of all directors appointed as aforesaid shall serve for a term of six (6) years and thereafter until their successors shall have been appointed and qualified. Any vacancy shall be filled by the Governor as herein provided. As used herein the word 'appointed' shall be considered as synonymous with the word 'elected' used elsewhere in this Act with reference to the selection of directors."

Section 2. Amend ⁷¹ Subsection (a) of Section 5, Chapter 412, Acts of the Fifty-third Legislature, 1953, so that said Subsection shall hereafter read as follows:

"(a) The Board of Directors shall perform official actions by resolution and two-thirds ($\frac{2}{3}$) of their number shall constitute a quorum for the transaction of any and all business of the District. A majority vote of those present shall be sufficient in all official actions including final passage and enactment of all resolutions; provided, however, that the site or location of any dam to be constructed by the District within two (2) years after this Act becomes Law shall be approved by a two-thirds ($\frac{2}{3}$) vote of the Board of Directors of this Authority.

70. Vernon's Ann.Civ.St. art. 8280—157, § 3. 71. Vernon's Ann.Civ.St. art. 8280—157, § 5(a).

Section 3. Amend ⁷² Subsection (b) of Section 6, Chapter 412, Acts of the Fifty-third Legislature, 1953, so that said Subsection shall hereafter read as follows:

"(b) If the Board of Directors finds that the petition is signed by the required number of qualified persons and otherwise complies with the foregoing Subsection, that the annexation would be to the interest of the territory and the District, and that the District will be able to render service to the territory, it shall call an election in the territory to be annexed for the purpose of submitting the proposition of whether or not it shall be annexed to the District. It is especially provided, however, that in the event either the City of Tyler, Smith County, or Athens, Henderson County, Texas shall petition for annexation to the District, in the manner herein provided, said petition shall be granted and said Cities, either or both, shall be entitled to annexation subject only to the provisions set forth in the balance of this Section. Railroad right-of-way, transmission lines and other property of electric, telephone, telegraph and gas utilities which are not situated within the defined limits of an incorporated city or town will not be benefited by improvements, works and facilities which the District is authorized to construct; therefore, no railroad right-of-way, or transmission lines, or other property of electric, telephone, telegraph and gas utilities shall hereafter be annexed to the District except such right-of-way, transmission lines and other property of electric, telephone, telegraph and gas utilities as are contained within the limits of an incorporated city or town then or thereafter annexed to the District."

Section 4. Amend ⁷³ Subsection (f) of Section 6, Chapter 412, Acts of the Fifty-third Legislature, 1953, so that said Subsection shall hereafter read as follows:

"(f) In the event the District shall have been authorized to levy ad valorem taxes or shall have been authorized to issue or shall have issued authorized obligations supported either wholly or in part by ad valorem taxation, prior to the calling of an election for the annexation of territory thereto, then the procedure to be employed and the results thereof shall be as follows: (1) Upon receipt of the petition for annexation as prescribed in Subsections (a) and (b) of this Section, the Board of Directors shall by appropriate resolution or order call an election to be held on the same day in both the District and the Territory to be annexed and shall issue and publish election notices in both such areas in the same time, and manner, as is set forth in Subsection (c) of this Section; (2) the persons eligible to vote at such election shall have the same qualifications as are prescribed by Subsection (d) of this Section and the returns from each area shall be made to the Board of Directors; (3) in calling such election in the territory seeking annexation the Board of Directors shall submit as one joint proposition to be voted upon therein the question of whether the territory shall be annexed and whether it shall assume its pro rata part of the aforementioned ad valorem taxes and/or tax supported obligations. In calling such election in the District itself the Board of Directors shall submit as the single proposition to be voted upon therein the question of whether the District as enlarged by the proposed annexation shall assume its pro rata part of the aforementioned ad valorem taxes and/or tax supported obligations; (4) if the propositions thus submitted carry by majority vote in both the area of the District and the area of the territory seeking annexation, the Board shall enter its order or resolution annexing the territory and declaring the assumption of such ad valorem taxes and/or tax supported obligations by the Dis-

72. Vernon's Ann.Civ.St. art. 8280—157, § 6(b). 73. Vernon's Ann.Civ.St. art. 8280—157, § 6(f).

trict as thus enlarged and such annexation and assumption thereafter shall be incontestable except in the manner and within the time for contesting elections under the General Election Laws. Upon a favorable vote on the proposition submitted in the territory seeking annexation the Board shall enter its order or resolution annexing same and declaring it a duly constituted part of the District. A majority vote of all those cast at the combined elections in such territory and the District in favor of the propositions submitted in the respective areas shall be sufficient to accomplish the assumption of the aforementioned ad valorem taxes and/or tax supported obligations by the District as enlarged, but should such majority be against such propositions, the status of such taxes and/or obligations shall remain the same as before such election."

Section 5. That Section 13(a) of House Bill No. 579, Chapter 412, Acts of the Fifty-third Legislature, Regular Session, 1953, be and the same is hereby amended ⁷⁴ so as to hereafter read and provide as follows:

"Section 13.

"(a). To store, control, conserve, protect, distribute and utilize storm and flood waters and unappropriated flow of the Neches River and such portions of its tributaries as are located within Smith, Cherokee, Anderson and Henderson Counties, Texas, except that portion of the drainage area of Flat Creek in Henderson County which lies west of presently designated Farm-to-Market Road No. 607 leading from LaRue through Leagueville to Brownsboro, by construction of a dam or dams across said River and its tributaries within said Counties or otherwise by complying with the terms of Chapter 1, Title 128, Revised Civil Statutes of Texas, as amended, in order that the escape of any such waters without first obtaining therefrom the maximum of public benefit may be prevented in so far as it is feasible and practicable within the means of the District, except that the District shall not have the right to build a dam or dams outside the boundaries of Smith, Cherokee, Anderson and Henderson Counties. To acquire and develop underground sources of water in such instances and to such extent as the District's Board of Directors may consider necessary and feasible in the conduct of its business and affairs, but only within Smith, Cherokee, Anderson and Henderson Counties. The District is further empowered to acquire by purchase, contract, or lease, gift or in any other lawful manner and to develop all facilities within the Counties of Smith, Cherokee, Anderson and Henderson deemed necessary or useful for the purpose of diverting, storing, controlling, conserving, protecting, distributing, processing and utilizing such surface or ground water and the transportation thereof for municipal, domestic, industrial and other useful purposes permitted by law. The Upper Neches River Authority shall not acquire any water rights in or exercise any control over the water in that portion of the drainage area of Flat Creek in Henderson County that lies west of Farm-to-Market Road No. 607 leading from LaRue through Leagueville to Brownsboro."

Section 6. That Section 13(c) of House Bill No. 579, Chapter 412, Acts of the Fifty-third Legislature, Regular Session, 1953, be and the same is hereby amended ⁷⁵ so as to hereafter read and provide as follows:

"Section 13.

"(c). To acquire by condemnation to the extent and in the manner set forth and permitted by General Law, including Title 52, Revised Civil Statutes of Texas, 1925, as amended, any property or right in property necessary to be acquired by the District with respect to any project which it is lawfully empowered to provide and which has been approved by the State Board of Water Engineers, or its successors, under the provisions of

⁷⁴. Vernon's Ann.Civ.St. art. 8280—157, § 13(a).

⁷⁵. Vernon's Ann.Civ.St. art. 8280—157, § 13(c).

General Laws including those set forth in Article 7880-139, it being further provided, however, that the District shall not have the right to condemn any property or right in property which is owned by any other political subdivision, city or town of this State.

"Provided, however, that said District shall never have the right to condemn any property lying outside of Smith, Cherokee, Anderson and Henderson Counties, except for the purpose of constructing necessary transportation facilities to a purchaser of water from the District."

Section 7. That Section 13(o) of House Bill No. 579, Chapter 412, Acts of the Fifty-third Legislature, Regular Session, 1953, be and the same is hereby amended ⁷⁶ so as to hereafter read and provide as follows:

"Section 13.

"(o). To cooperate and enter into contracts with cities, persons, firms, corporations, and public agencies for the purpose of supplying and selling them water for municipal, domestic, industrial and other useful purposes permitted by law, provided that cities and areas constituting the District shall be accorded priority in the allocation of the District's available water, and the Board of Directors shall prescribe rules to effectuate this provision. Any such contract may be upon such terms and for such time as the parties may agree, and it may provide that it shall continue in effect until the District's bonds specified therein and refunding bonds issued in lieu of such bonds are fully paid. In the event that the District shall undertake to pledge the proceeds of water contracts with its constituent cities to the payment of any bonds supported in whole or in part by revenues, and issued by it to finance the construction of a water supply or transportation facility for such city, it shall not be obligated to construct or otherwise provide such facility to any constituent city, which for any reason, fails to enter into such contract. In the event the District shall have contracted with the United States Government or any of its agencies for a source of water supply or for the furnishing of any facilities necessary or useful to the District in carrying out its purpose, any such contract entered into under authority hereof may provide that it shall continue until the District has fully discharged all obligations incurred by it under the terms of its contracts with the United States Government or its agencies. The District is also authorized to contract with any city, district or governmental agency, including the United States Government or any of its agencies, for the rental or leasing of, or for the operation of their water production, water supply, water filtration or purification and water supply facilities upon such consideration as may be mutually agreeable. The District is also authorized to purchase water or a water supply from any person, firm, corporation or public agency, or from the United States Government or any of its agencies."

Section 8. That Section 31 of House Bill No. 579, Chapter 412, Acts of the Fifty-third Legislature, Regular Session, 1953, be and the same is hereby amended ⁷⁷ so as to hereafter read and provide as follows:

"Sec. 31. Scope of District's Authority. The exercise of all powers herein granted the District pertaining to the construction and operation of its facilities including its right of eminent domain shall be limited only to the extent set forth in Section 13(c) hereof."

Section 9. All laws or parts of laws in conflict herewith, including Subsection (g), of Section 6, Chapter 412, Acts of the Fifty-third Legislature, 1953, are hereby repealed ⁷⁸ to the extent of such conflict.

76. Vernon's Ann.Civ.St. art. 8280-157, § 13(o).

77. Vernon's Ann.Civ.St. art. 8280-157, § 31.

78. Vernon's Ann.Civ.St. art. 8280-157, § 6(g).

Section 10. The fact that the District is in urgent need of the additional powers herein granted constitutes an emergency and an imperative public necessity requiring that the Constitutional Rule that bills be read on three several days in each House be suspended, and such Rule is hereby suspended, and this Act shall take effect from and after its passage, and it is so enacted.

Passed the House, April 5, 1955: Yeas 142, Nays 3; House concurred in Senate amendments April 26, 1955: Yeas 137, Nays 0, 1 present not voting; passed the Senate, as amended, April 20, 1955: Yeas 30, Nays 0.

Approved May 10, 1955.

Effective May 10, 1955.

COUNTY LIBRARIES—BONDS

CHAPTER 194 ⁷⁹

S. B. No. 253

An Act to authorize Commissioners Courts to acquire land for and to purchase, construct, repair, equip and improve buildings and other permanent improvements to be used for county library purposes; providing for the location and payment therefor; authorizing the issuance of negotiable bonds for such purpose and the levy and collection of taxes in payment thereof; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. The Commissioners Court of any county in this State is hereby authorized to acquire land for and to purchase, construct, repair, equip and improve buildings, and other permanent improvements to be used for county library purposes. Such building or buildings and other permanent improvements may be located in the county at such place or places as the Commissioners Court may determine. Payment for such buildings and repairs and improvements and other permanent improvements shall be made from the Constitutional Permanent Improvement Fund.

Sec. 2. To pay the costs of acquiring land for and of purchasing, constructing, repairing, equipping and improving such buildings and other permanent improvements, the Commissioners Court is hereby authorized to issue negotiable bonds of the county and to levy and collect taxes in payment thereof, the issuance of such bonds and the levy and collection of taxes to be in accordance with the provisions of Chapter 1, Title 22, Revised Civil Statutes of Texas, 1925, as amended, governing the issuance of bonds by cities, towns, and/or counties in this State.

Sec. 3. The fact that there is a great need in many counties for the improvements authorized hereby and the power to finance the same by the issuance of negotiable bonds, creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House, be and the same is hereby, suspended; and this Act shall take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate, April 14, 1955, by a viva voce vote; passed the House, April 29, 1955: Yeas 137, Nays 1.

Approved May 11, 1955.

Effective 90 days after June 7, 1955, date of adjournment.

79. Vernon's Ann.Civ.St. art. 1696a.